

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CEASAR HOLLOWAY,)	
)	
Plaintiff,)	
v.)	Case No. 1:23-cv-278
)	
SUPERINTENDENT RANDY IRWIN, <i>et al.</i>,)	
)	
Defendants.)	

MEMORANDUM ORDER

The within *pro se* civil action was commenced on September 29, 2023 by Plaintiff Ceasar Holloway, an inmate at the State Correctional Institution at Forest (“SCI-Forest”). Plaintiff’s operative pleading is his Amended Complaint, which was filed on March 28, 2024. ECF No. 23. Therein, Plaintiff alleges that Superintendent Randy Irwin, CO K. Miller, Sergeant Andres, and Hearing Examiner Fiscus (“Defendants”) violated his federal civil rights in various respects during the course of his confinement at SCI-Forest.

On April 11, 2024, the Defendants filed a partial motion to dismiss, ECF Nos. 25 and 26, to which Plaintiff has responded. *See* ECF Nos. 32 and 33. Defendants’ motion is now ripe and has been referred to Chief United States Magistrate Judge Richard A. Lanzillo in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Civil Rule 72.

On October 29, 2024, Judge Lanzillo issued a report and recommendation (“R&R”) in which he opined that Defendants’ motion should be granted and that certain claims in the Amended Complaint should be dismissed. Although Plaintiff did not organize his pleading into separate claims or counts, Judge Lanzillo discerned at least four causes of action in the Amended Complaint: (1) an Eighth Amendment claim based on Defendants Andres’ and Miller’s alleged failure to protect Holloway from an assault by another inmate on December 22, 2022; (2) an

Eighth Amendment claim based on Defendants Andres' and Miller's alleged use of excessive force against Holloway on December 22, 2022; (3) an Eighth Amendment claim based on the denial of medical treatment and decontamination after Andres and Miller deployed OC spray against Holloway on December 22, 2022; and (4) a Fourteenth Amendment due process claim based on an allegedly false misconduct charge issued against Holloway following the December 22, 2022 incident. Judge Lanzillo also found that certain allegations in the Amended Complaint can be read as attempting to state an Eighth Amendment claim based on the conditions of the RHU.

Following his review of the Amended Complaint and Defendants' motion, Judge Lanzillo recommended that this Court dismiss (a) all claims against Defendants in their official capacities; (b) all claims based on alleged violations of DOC policy; and (c) Holloway's Fourteenth Amendment due process claim, which was predicated upon alleged deficiencies related to his misconduct hearing. Because Judge Lanzillo believed that these claims could not be rehabilitated through further amendment, he recommended that they be dismissed with prejudice.

Judge Lanzillo further recommended that the Court dismiss the following claims without prejudice: (1) Plaintiff's claims against Defendant Irwin, (2) Plaintiff's failure-to-protect claim against Andres and Miller, (3) Plaintiff's Eighth Amendment claim based on alleged deliberate indifference to his serious medical needs, and (4) Plaintiff's Eighth Amendment conditions-of-confinement claim.¹ Judge Lanzillo opined that further amendment of these claims might not be futile and, therefore, Plaintiff should have an opportunity to restate them in a new amended pleading.

¹ Although Plaintiff's Eighth Amendment failure-to-protect claim against Andres and Miller and his Eighth Amendment claim based on the conditions of his confinement in the RHU were not addressed in the Defendants' motion, Judge Lanzillo recommended that those claims be dismissed consistent with the mandates of 28 U.S.C. §1915(e)(2) and §1915A.

Objections to the R&R were due on or before November 15, 2024. To date, no objections have been received.

After *de novo* review of the Amended Complaint and documents in the case, including the Defendants' pending motion, all filings related thereto, and the Chief Magistrate Judge's Report and Recommendation,

IT IS ORDERED, this 22nd day of November, 2024, that the Defendants' partial motion to dismiss, ECF No. [25], is GRANTED, and the following claims shall be, and hereby are, DISMISSED:


1. all monetary claims against the Defendants in their official capacities;
2. all claims against Superintendent Randy Irwin in his personal capacity;
3. all claims based on alleged violations of DOC policies;
4. Plaintiff's Eighth Amendment deliberate indifference claims against Defendants Andres and Miller, based on Plaintiff's failure to receive medical treatment or decontamination after allegedly being sprayed with OC spray; and
5. Plaintiff's Fourteenth Amendment due process claims against Defendants Fiscus, Andres, and Miller.

IT IS FURTHER ORDERED that Plaintiff's Eighth Amendment failure-to-protect claim against Defendants Andres and Miller and Plaintiff's Eighth Amendment claim based on the conditions of his confinement in the RHU are DISMISSED, pursuant to the requirements of 28 U.S.C. §1915(e)(2) and §1915A.

IT IS FURTHER ORDERED that (a) Plaintiff's monetary claims against the Defendants in their official capacities, (b) Plaintiff's claims based on alleged violations of DOC policies, and (c) Plaintiff's Fourteenth Amendment due process claims against Defendants Fiscus, Andres, and Miller are DISMISSED WITH PREJUDICE and without leave for further amendment. The

remaining claims addressed herein are DISMISSED WITHOUT PREJUDICE, and with leave to amend, consistent with the principles outlined in the Chief Magistrate Judge's Report and Recommendation. To that end, Plaintiff may reassert his (1) claims against Defendant Irwin, (2) failure-to-protect claim against Andres and Miller, (3) Eighth Amendment claim based on deliberate indifference to medical needs claim, and (4) Eighth Amendment conditions-of-confinement claim **on or before December 13, 2024** in a second amended complaint that shall include all his claims against the Defendants. **In the event Plaintiff declines to file an amended complaint or on before December 13, 2024, the Court's dismissal of his (1) claims against Defendant Irwin, (2) failure-to-protect claim against Andres and Miller, (3) Eighth Amendment claim based on deliberate indifference to medical needs claim, and (4) Eighth Amendment conditions-of-confinement claim will be converted to a dismissal with prejudice, without further notice.**

IT IS FURTHER ORDERED that the Report and Recommendation of the Chief United States Magistrate Judge issued on October 29, 2024, ECF No. [34], is adopted as the Opinion of this Court.


SUSAN PARADISE BAXTER
United States District Judge